



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/457,466	12/08/1999	BRAD HANDLER	003801.P004	7716

7590

06/04/2002

BLAKEY SOKOLOFF TAYLOR & ZAFMAN LLP  
12400 WILSHIRE BOULEVARD  
7TH FLOOR  
LOS ANGELES, CA 90025

EXAMINER

ELISCA, PIERRE E

ART UNIT

PAPER NUMBER

3621

DATE MAILED: 06/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/457,466

Applicant(s)  
Brad, Handler

Examiner  
Pierre E. Elisca

Art Unit  
3621



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 5/7/2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above, claim(s) NONE is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

Art Unit: 3621

### DETAILED ACTION

1. This Office action is in response to Applicant's CRE, filed on 05/07/2002.

2. Claims 1-6 are remained.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Fisher et al.

(U.S. Pat. No. 5,835,890) in view of Cooper ("Going going gone, Tradition gives way to technology, British Telecom World, March 1990), and further in view of Braddock, III (U.S. Pat. No. 4,412,287).

**As per claims 1-6, Fisher** substantially discloses a method comprising:  
accepting a bid from an online bidder in the online environment to reflecting the online bidder's maximum proxy price (see., col 9, lines 18-24);  
bidding on behalf of the remote bidder against one or more live bidders that are participating in the live, in-person auction (see., page 1, paragraph 9-10);

Art Unit: 3621

Fisher does not disclose but Cooper discloses the following:

updating a current bid associated with an item in a telecommunication environment to reflect a current bid associated with the item in a live, in-person auction (see., page 1, paragraph 9-10, it is obvious to updating a current bid in order for the remote bidder to compete with bidder of live auction. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Cooper's interactive television auction system with Fisher's online to compete with bidder in live auction for broadening audience and cost saving.

Fisher discloses bidding on behalf of the online bidder (see., col 9-10), but he does not disclose said bid are bided against participant in the live, in-person auction based upon the maximum proxy price.

However, Cooper discloses bidders from remote bid against participant in a live auction (see., page 1, paragraph 9-10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fisher's online bidding with Cooper's television interactive auctioning system for the benefit of broadening audience and cost saving. It is to be noted that Fisher and Cooper do not teach the step of amount exceed the maximum proxy price. Braddock discloses an automated auction stock exchange in which a computer matches and sell orders for a plurality of stocks. When the maximum price change per trade is exceeded, or when the maximum price change per cycle is exceeded (see., col 1, lines 34-37, col 20, lines 15-28). Accordingly, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Fisher and Cooper by including the limitation detailed above

Art Unit: 3621

because such modification would provide the teachings of Fisher and Cooper with the benefit of broadening audience and cost saving based on a maximum price limit.

### **CONCLUSION**

5. Any inquiry concerning this communication from the examiner should be directed to Pierre Eddy Elisca at (703) 305-3987. The examiner can normally be reached on Tuesday to Friday from 6:30AM to 5:00PM.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9769.

**Any response to this action should be mailed to:**

Commissioner of Patents of Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 308-9051, (for formal communications intended for entry)

**OR**

(703) 305-9724, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., seventh floor (receptionist).

The Official Fax Numbers For TC-3621 Are:

Application/Control Number: 09/457,466

Page 5

Art Unit: 3621

After-final (703) 746-7238

Official (703) 746-7239

Non-Official/Draft (703) 746-7240



Pierre Eddy Elisca

Patent Examiner

May 21, 2002